

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
D E P A R T M E N T O F H E A L T H

Safe and Healthy Lives in Safe and Healthy Communities

STATE OF RHODE ISLAND AND
PROVIDENCE PLANTATIONS,
DEPARTMENT OF HEALTH,
BOARD OF MEDICAL LICENSURE
AND DISCIPLINE

No. C95-258

In the matter of:
Stephen F. Ponchak, Jr., M.D.

CONSENT ORDER

Pursuant to Section 5-37-5.1 of the General Laws of the State of Rhode Island, 1956, as amended, notification was filed with the Board of Medical Licensure and Discipline (hereinafter referred to as "Board") charging Stephen F. Ponchak, Jr., M.D., Respondent, with violations of Section 5-37-5.1 of the General Laws of the State of Rhode Island, 1956, as amended. An investigation was conducted by Investigating Committee I, so called, of the Board.

The following constitutes the Investigating Committee's Findings of Fact with respect to the professional performance of the Respondent.

Findings of Fact

1. The Respondent and the Commonwealth of Massachusetts entered into a Consent Order in which the Respondent admitted to taking other doctors' blank signed prescription forms and writing prescriptions to himself,

or had prescriptions for himself telephoned to pharmacies using the name of another physician. These prescriptions involved the drugs: Naphcon, Proventil Inhaler, Robitussin-AC Syrup, Seldane and Stadol Nasal Spray.

2. At the end of 1994, the Board of Registration in Medicine for the Commonwealth of Massachusetts commenced an investigation of a complaint that the Respondent had violated Massachusetts laws and regulations relating to prescription practices. In June 1995, Respondent submitted a Petition for Voluntary Restriction to the Massachusetts Board in which he agreed not to practice medicine for ninety days, which Petition was accepted by the Massachusetts Board of Registration in Medicine for the Commonwealth of Massachusetts on June 28, 1995. After Respondent's departure from his former medical practice and during the period of the investigation by the Massachusetts Board, the Respondent sought medical treatment.

3. None of the allegations by nor proceedings with the Massachusetts Board relate to any issues regarding chemical dependency, nor has the Respondent received any treatment for chemical dependency in connection with proceedings with the Massachusetts Board or otherwise.

4. On January 24, 1996, the Massachusetts Board approved a Consent Order between it and the Respondent which provides for a suspension of the Respondent's license to practice medicine in Massachusetts. Such suspension commenced on June 28, 1995 and is to be stayed upon the Respondent's demonstration to the Board that he is physically and emotionally fit to practice medicine. Further, the Respondent has entered a Probation Agreement with the Massachusetts Board during which he will be monitored for a period of five years. Other terms involve, inter alia a) he must refrain from the use of all controlled substances unless prescribed by a treating physician for a legitimate medical purpose; b) he abide by the terms of a contract with the Massachusetts Medical Society's Physician Health Services and a contract with the Physician Health Committee of the Rhode Island Medical Society; c) and he must be under the care of a licensed health professional experienced in treating depression.

5. The Board of Medical Licensure and Discipline alleges that the Respondent has violated Rhode Island General Laws 5-37-5.1 (21) for action in the State of Massachusetts which are grounds for discipline in Rhode Island.

The parties agree as follows:

(1) The Respondent is a physician previously licensed and

doing business under and by virtue of the Laws of the State of Rhode Island, allopathic license number, 6623.

(2) Respondent admits to the jurisdiction of the Board and hereby agrees to remain under the jurisdiction of the Board.

(3) Respondent has read this Consent Order and understands that it is a proposal of Investigating Committee I of the Board and is subject to the final approval of the Board. This Consent Order is not binding on respondent until final ratification by the Board.

(4) Respondent hereby acknowledges and waives with respect to the findings of fact and terms set forth herein:

- a. The right to appear personally or by counsel or both before the Board;
- b. The right to produce witnesses and evidence in his behalf at a hearing;
- c. The right to cross examine witnesses;
- d. The right to have subpoenas issued by the Board;
- e. The right to further procedural steps except for specifically contained herein;
- f. Any and all rights of appeal of this Consent Order;
- g. Any objection to the fact that this Consent Order will be presented to the

Board for consideration and review;

h. Any objection to the fact that it will be necessary for the Board to become acquainted with all evidence pertaining to this matter in order to review adequately this Consent Order;

i. Any objection to the fact that potential bias against the Respondent may occur as a result of the presentation of this Consent Order.

(5) If the Consent Order is not accepted by the Respondent, the Investigative Committee will recommend to the Board that an Administrative Hearing be scheduled with respect to any and all acts of alleged unprofessional conduct. If the Board approves, a Hearing Committee will be convened for the purpose of conducting the Administrative Hearing. The composition of the Hearing Committee is described by statute. If the Hearing Committee votes in favor of finding the Respondent guilty of unprofessional conduct as specified in the charges, the Board shall prepare written finding of fact and law in support of said conclusion. If the accused is found not guilty, the Board shall, forthwith, issue an order dismissing the charges.

(6) Acceptance of this Consent Order constitutes an admission by the Respondent of the facts set forth herein.

(7) This Consent Order shall become part of the public record of this proceeding once it is accepted by all parties and by the Board. It shall be published as the Board, in its exercise of its discretion, shall determine.

(8) Failure to comply with this Consent Order, when signed and accepted, shall subject the Respondent to further disciplinary action.

(9) Respondent voluntarily accepts the Board's finding of unprofessional conduct. The sanctions imposed by the Board of Registration in Medicine of the Commonwealth of Massachusetts, as set forth in the Massachusetts Consent Order and Probationary Agreement, are incorporated in this Order and shall become the sanctions of the Board subject to all rights and remedies of the Respondent. If the Respondent wishes to return to full practice, he must demonstrate to the Board his capacity to do so in the same manner mandated by the Commonwealth of Massachusetts.

Signed this

8th

day of July 1996.

Stephen F. Ponchak, Jr. M.D.
Stephen F. Ponchak, Jr., M.D.

Stephen F. Ponchak, Jr., M.D.

Ratified by the Board of Medical Licensure and Discipline at
a meeting held on *July 10,* 1996.

Patricia A. Nolan, MD, MPH
Patricia A. Nolan, M.D., M.P.H.
Chairperson
Board of Medical Licensure and
Discipline